IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

Crl.MC.No. 318 of 2007()

C.M/.P.NO.604/06 OF THE JFMC, CHANGANASSERRY

F.I.R.NO.440/06 OF THE CHANGANASSERRY POLICE STATION

PETITIONERS/ ACCUSED 1 & 2:

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1. KENNY KURUVILLA,
   S/O.KURUVILLA, AGED 40 YEARS,
   NALPATHAMKALATHIL HOUSE, THURUTHY P.O.,
   CHANGANASSERY.

2. LILLIKUTTY KURUVILLA @ THRESIAMMA
   -KURUVILLA, W/O.KURUVILLA, AGED 66 YEARS,
   NALPATHAMKALAM HOUSE, VELIYANADU VILLAGE,
   RAMANKARY.

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENTS/ DEFACTO- COMPLAINANT & STATE:

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1. MERLY MATHEW,
   NALPATHAMKALAM HOUSE,
   THURUTHY P.O., VAZHAPALLY, CHANGANASSERRY.

2. SUB-INSPECTOR OF POLICE,
   CHANGANASSERY POLICE STATION,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB
ADV. SMT.S.INDU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.318 of 2007

Dated this the 12th day of February 2007

O R D E R

The petitioners are husband and mother of the first respondent who is the defacto complainant in a prosecution under Section 498(A) read with 34 I.P.C. Cognizance has been taken on the basis of the final report submitted by the police after due investigation. The first respondent herein has raised an allegation that the petitioners had committed an offence punishable under Section 498(A) read with 34 I.P.C against her. The matter is pending before the J.F.C.M,Changanasserry as C.C.No.459/2006.

2. The petitioners have come to this court and report to this court that the dispute has been settled amicably by the petitioners/accused and the first respondent/defacto complainant. The dispute between them having been settled and the parties having started separate residence by consent, the continuance of the prosecution would be irritant in their relationship. It is, in these circumstances, prayed that powers under Section 482 Cr.P.C may be invoked and the proceedings

against the petitioners may be quashed. Proceedings were initiated on the basis of a private complaint filed by the first respondent before the learned Magistrate. It was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. The offence under Section 498(A) is not declared by the law to be compoundable. The petitioners, therefore, place reliance on the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] . They contend that the powers under Section 482 Cr.P.C are liable to be invoked in this case in the interests of justice which must in an appropriate case transcend the interests of mere law. The first respondent/defacto complainant has also entered appearance through the counsel. The learned counsel confirms that the matter has been settled and that the first respondent also wants the proceedings to be quashed. A joint application has been filed by the petitioners and the first respondent duly counter signed by their respective counsel. The learned counsel for the first respondent vouches for the signature of the respondents/complainant in the application for composition. I am satisfied that this is a fit case where powers under Section 482 Cr.P.C can be invoked. Notwithstanding the

fact that Section 498(A) is not declared by law to be compoundable, I am satisfied that the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked and the proceedings against the petitioners can be brought to a premature termination, as requested by both counsel.

3. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.49/2006 pending before the J.F.C.M, Changanassery is hereby quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006